DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

FORM APPROVED
OMB NO. 0938-0193

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL

FOR: HEALTH CARE FINANCING ADMINISTRATION

1. TRANSMITTAL NUMBER: 03-005

2. STATE: Nebraska

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR
HEALTH CARE FINANCING ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE
September 1, 2003

5. TYPE OF PLAN MATERIAL *(Check One)*:

☐ NEW STATE PLAN ☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN ☐ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT *(Separate Transmittal for each amendment)*

6. FEDERAL STATUTE/REGULATION CITATION:

7. FEDERAL BUDGET IMPACT:
a. FFY 2004 $ 0
b. FFY 2005 $ 0

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:
Att. 4.19-D, Pages 56-69

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*:
Att. 4.19-D, Pages 56-69

10. SUBJECT OF AMENDMENT:
Services to Long Term Clients with Special Needs

11. GOVERNOR'S REVIEW *(Check One)*:
☐ GOVERNOR'S OFFICE REPORTED NO COMMENT
☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL
☐ OTHER, AS SPECIFIED:
Governor has waived review

12. SIGNATURE OF STATE AGENCY OFFICIAL:

13. TYPED NAME:
Robert J. Seiffert

14. TITLE:
Administrator

15. DATE SUBMITTED:
June 13, 2003

16. RETURN TO:
Margaret Booth
HHS-F&S
301 Centennial Mall South
Lincoln, Nebraska 68509

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED: JUN 13 2003

18. DATE APPROVED: DEC 15 2003

PLAN APPROVED – ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL: SEP - 1 2003

20. SIGNATURE OF REGIONAL OFFICIAL:

21. TYPED NAME: Charlene Brown

22. TITLE: Deputy Director, CMSO

23. REMARKS:

FORM HCFA-179 (07-92)

*Level of Care 50 (Short-term stay) is used for stays of less than 14 days when a client is discharged and the facility does not complete a full MDS 2.0 assessment of the client. The weight is calculated for LOC 50 at 110% of the facility's average case weight determined for all assessed residents during a cost report period. The weight for LOC 50 is finalized retroactively for each cost report period. This is effective for admissions on or after July 1, 1998.

**Levels of Care 51 and 52 are used for clients at levels of care 35 and 36, respectively, who are approved under 471 NAC 12-011.14A.

12-013.05 Verification: Resident assessment information is audited as a procedure in the Department of Health and Human Services Regulation and Licensure Survey and Certification process.

12-014 Services for Long Term Care Clients with Special Needs

12-014.01 The term "Long term care clients with special needs" means those whose medical/nursing needs are complex or intensive and are above the usual level of capabilities of staff and exceed services ordinarily provided in a nursing facility as defined in 471 NAC 12-003.

12-014.01A Ventilator-Dependent Clients: These clients are dependent on mechanical ventilation to continue life and require intensive or complex medical services on an on-going basis. The facility shall provide 24-hour R.N. nursing coverage.

12-014.01A1 Criteria for Care: The client must -

1. Require intermittent (but not less than 10 hours in a 24-hour period) or continuous ventilator support. S/he is dependent on mechanical ventilation to sustain life, or is in the process of being weaned from mechanical ventilation. (This does not include individuals using continuous positive airway pressure (C-PAP) or Bi-level positive airway pressure (Bi-PAP) nasally; patients requiring use of Bi-PAP via a tracheostomy will be considered on a case-by-case basis);
2. Be medically stable and not require intensive acute care services;
3. Have care needs which require multi-disciplinary care (physician, nursing, respiratory therapist, psychology, occupational therapy, physical therapy, pharmacy, speech therapy, spiritual care, or specialty disciplines);

4. Require daily respiratory therapy intervention and/or modality support (for example: oxygen therapy, tracheostomy care, chest physiotherapy, deep suctioning, etc.); and
5. Have needs that cannot be met at a lesser level of care (for example: skilled nursing facility, nursing facility, assisted living, private home).

12-014.01B Clients with Brain Injury:

12-014.01B1 Clients Requiring Specialized Extended Brain Injury Rehabilitation: These clients must require and be capable of participating in an extended rehabilitation program. Their care must be -

1. Primarily due to a diagnosis of acute brain injury (see 471 NAC 12-001.04); or
2. Primarily due to a diagnosis of chronic brain injury following demonstration of significant improvement over a period of six months while receiving rehabilitative services based on approval by NMAP.

12-014.01B1a Criteria for Care: The client must:

1. Require physician services that exceed those described in 471 NAC 12-007.09;
2. Have needs that exceed the nursing facility level of care (that is, needs that cannot be met at a lower level of care such as a traditional nursing facility, assisted living, or a private home), as evidenced by:
   a. Complex medical needs as well as extended training or rehabilitation needs that together exceed the criteria for nursing facility level of care;
   b. Combinations of extended training or rehabilitative needs that together exceed the criteria for nursing facility level of care;
   c. Extended training or rehabilitation needs that require multi-disciplinary care including but not limited to those provided by a psychologist, physician, nurse, occupational therapist, physical therapist, speech and language pathologist, cognitive specialist, rehabilitation trainer, etc.; or
   d. Complex combinations of needs from various domains such as behavior, cognitive, medical, emotional and physical.

3. Be capable of participating in an extended training or rehabilitation program evidenced by:
   a. Ability to tolerate a full rehabilitation schedule daily;
   b. Being medically stable and free from complicating acute major medical conditions that would prohibit participation in an extended rehabilitation program;
   c. Possessing the cognitive ability to communicate some basic needs, either verbally or non-verbally;
   d. Being able to respond to simple requests with reasonable consistency, not be a danger to themselves or others, but may be confused, inappropriate, engage in non-purposeful behavior in the absence of external structure, exhibit mild agitation, or have severe attention, initiation, and/or memory impairment (minimum Level IV on the Rancho Los Amigos Coma Scale; and
   e. Being absent of addictive habits and/or behaviors that would inhibit successful participation in the training or rehabilitation program;
4. Have potential to benefit from an extended training or rehabilitation program resulting in reduced care needs, increased independence, and a reasonable quality of life as evidenced by:
   a. Possessing a current documented prognosis that indicates that s/he has the potential to successfully complete an extended training or rehabilitation program;
   b. Possessing the ability to learn compensatory strategies for, or to acquire skills of daily living in areas including, but not limited to transportation, money management, aide management, self medication, social skills, or other self cares which may result in requiring residency in a lower level of residential care; and
   c. Documentation supporting that s/he is making continuous progress in an extended training or rehabilitation program including transitional training for successful discharge or transfer.

12-014.01B2 Criteria for Care of Clients Requiring Long Term Care Services for Brain Injury: The client must:

1. Have needs that exceed the nursing facility level of care (that is, needs cannot be met at a lower level of care such as traditional nursing facility, assisted living, or a private home), as evidenced by:

a. Combinations of medical, care and/or rehabilitative needs that together exceed the criteria for nursing facility level of care;
b. Care that requires a specially trained, multi-disciplinary team including but not limited to physician, nurse, occupational therapist, physical therapist, speech and language pathologist, psychologist, cognitive specialist, adaptive technologist, etc.;
c. Complex care needs occurring in combinations from various domains such as behavior, cognitive, medical, emotional, and physical that must be addressed simultaneously; or
d. Undetermined potential to benefit from extended training and rehabilitation program;

2. Be capable of participating in clinical program as evidenced by:
   a. Being non-aggressive and non-agitated;
   b. Being absent of addictive habits and/or behaviors that would inhibit participation in clinical program;
3. Have potential to benefit from clinical program as evidenced by:
   a. Being cognitively aware of surroundings and/or events;
   b. Being able to tolerate open and stimulating environment;
   c. Being able to establish/tolerate routines;
   d. Being able to communicate verbally or non-verbally basic needs; and
   e. Requiring moderate to extensive assistance to preserve acquired skills.

12-014.01C Other Special Needs Clients: These clients must require complex medical/rehabilitative care in combinations that exceed the requirements of the nursing facility level of care. These clients may also use excessive amounts of supplies, equipment, and/or therapies. The client must meet the criteria for one of the two following categories:

12-014.01C1 Criteria for Care of Clients with Rehabilitative Special Needs: The client must -

1. Be medically stable and require physician visits or oversight activities two to three times per week;
2. Require multi-disciplinary care (for example, physician, nursing, psychology, respiratory therapy, occupational therapy, physical therapy, speech therapy, pharmacy, spiritual care, or specialty disciplines);
3. Require care in multiple body organ systems;
4. Require a complicated medical/treatment regime, requiring observation and intervention by specially trained professionals, such as:

a. Multiple stage 2, or at least one stage 3 or stage 4 decubiti with other complex needs;
b. Multiple complex intravenous fluids, or nutrition with other complex needs;
c. Tracheostomy within the past 30 day with other complex care needs;
d. Intermittent ventilator use (less than ten hours in a 24-hour period) with other complex care needs;
e. Respiratory therapy treatments/interventions more frequently than every six hours with other complex care needs;
f. Initiation of Continuous Abdominal Peritoneal Dialysis (CAPD) or established CAPD requiring five or more exchanges per day with other complex care needs; or
g. In room hemodialysis as required by a physician with other complex care needs;

5. Require extensive use of supplies and/or equipment;
6. Have professional documentation supporting that s/he is making continuous progress in the rehabilitation program beyond maintenance goals; and
7. Have care needs that cannot be met at a lesser level of care (for example, skilled nursing facility, nursing facility, assisted living or private home.)

12-014.01C2 Criteria for Care of Pediatric Clients with Special Needs: The client must-

1. Be under age 21;
2. Be medically stable;
3. Require multidisciplinary care (physician, nursing, respiratory therapy, occupational therapy, physical therapy, psychology, or specialty disciplines); and
4. Require a complex medical/treatment regimen requiring observation and intervention by specially trained professionals, such as:
   a. Tracheostomy care/intervention with other complex needs;
   b. Intermittent ventilator use (less than ten hours in a 24-hour period) with other complex needs;
   c. Respiratory therapy treatments/interventions more than every six hours with other complex care needs; or

d. Multiple complex care needs that in combination exceed care needs usually provided in a nursing facility (for example, variable gastrostomy/nasogastric/jejunostomy feedings with documented aspiration risk; complicated medication regimen requiring titration of meds and/or frequent lab monitoring to determine dosage; multiple skilled nursing services such as intermittent urinary catheterizations, sterile dressing changes, strict intake/output monitoring, intravenous medications, hyperalimentation or other special treatments).

12-014.01D: The revised admission criteria does not apply to clients admitted before the effective date of these regulations.

12-014.01E Exception: Under extenuating circumstances, the Director of Finance and Support may approve an exception to the criteria for care of long term care clients with special needs based on recommendations of HHSS staff.

12-014.02 Facility Qualifications: To be approved as a provider of services for LTC clients with special needs, a Nebraska facility providing services to special needs clients must be licensed by the Nebraska Department of Health and Human Services Regulation and Licensure as a hospital or a nursing facility and be certified to participate in the Nebraska Medical Assistance Program (42 CFR 483, Subpart B). Out-of-state facilities must meet licensure and certification requirements of that state's survey agency. Out-of-state placement of clients will only be considered when their special needs services are not available within the State of Nebraska (see 471 NAC 1-002.02G).

The facility must demonstrate the capacity/capability to provide highly skilled multi-disciplinary care. The facility must ensure that its professional nursing staff have received appropriate training and have experience in the area of care pertinent to the individual client's special needs (such as ventilator dependent). The facility must have the ability to provide the necessary professional services as the client requires (such as respiratory care available 24 hours per day, seven days a week).

The facility must –

1. Demonstrate the capability to provide highly skilled multidisciplinary care;
2. Ensure that its staff have received appropriate training and are competent to care for the identified special needs population that is being served (for example, ventilator dependent, brain injury, complex medical/rehabilitation, complex medical pediatrics);

3. Be able to provide the necessary professional services that the special needs clients require (for example, respiratory therapy 24 hours a day, 7 days a week);
4. Have the physical plant adaptations necessary to meet the client's special needs (for example, emergency electrical back-up systems);
5. Establish admission criteria and discharge plans specific to each special needs population being served;
6. Have a separate and distinct unit for the special needs program;
7. Establish written special program criteria with policy and procedures to meet the needs of an identified special needs group as defined in 471 NAC 12-014.01;
8. Have written policies specific to the special needs unit regarding:
   a. Emergency resuscitation;
   b. Fire and natural disaster procedures;
   c. Emergency electrical back-up systems;
   d. Equipment failure (e.g.: ventilator malfunction);
   e. Routine and emergency laboratory and/or radiology services; and
   f. Emergency transportation.
9. Maintain the following documentation for special needs clients:
   a. A comprehensive multidisciplinary and individualized assessment of the client's needs before admission. The client's needs dictate which disciplines are involved with the assessment process. The assessment must include written identification of the client's needs that qualify the client for the special program as defined in 471 NAC 12-014.01. The initial assessment and the team's review and decisions for care must be retained in the client's permanent record. (see 471 NAC 12-014.03A);
   b. A copy of the admission "MDS 2.0 Basic Assessment Tracking Form" (Minimum Data Set), and Form DPI-OBRA1, "Identification Screen". These are to be maintained as part of the client's permanent record;
   c. A minimum of daily documentation or assessment and/or intervention by a Registered Nurse or other professional staff as dictated by the client's needs (e.g., Respiratory Therapy, Occupational or Physical therapy);
   d. A record of physician's visits; and
   e. A record of interdisciplinary team meetings to evaluate the client's response and success toward achieving the identified program goals and the team's revisions/additions/deletions to the established program plan (see 471 NAC 12-014.03D);
10. Maintain financial records in accordance with 471 NAC 12-011 and 12-012; and
11. Provide support services necessary to meet the care needs of each individual client and these must be provided under existing contracts or by facility staff as required by Medicare/Medicaid (42 CFR 483, Subpart B) for nursing facility certification (for example, respiratory, speech, physical or occupational therapies, psychiatric or social services).

12-014.03 Approval Process: NMAP pays for a special need nursing facility service as defined in 471 NAC 12-014 when prior authorized by the designated program specialist in the Central Office. Each admission shall be individually prior authorized.

12-014.03A Prior to Admission: A written comprehensive and individualized assessment completed by the facility must be sent to the Central Office. The assessment and accompanying documentation must address how the client meets the criteria for special needs care as defined in 471 NAC 12-014.01. It is the facility's responsibility to assess, gather and obtain this information and submit it to the Central Office for prior authorization and before admission.

Initial approval/denial will be given after Medicaid staff reviews the submitted information. It is the facility's responsibility to obtain and provide any missing or additional information requested by the Central Office. The initial approval will be delayed until all information is received by the Central Office staff. The Pre-Admission Screening Level I Evaluation (see 471 NAC 12-004.04) and Level II Evaluation, when applicable (see 471 NAC 12-004.08), must be completed before admission and the Level II findings/reports must accompany the packet of information sent to the Central Office for funding authorization.

12-014.03A1 Facilities serving the needs of individuals who are ventilator-dependent and other special needs clients (see 471 NAC 12-014.01A and 12-014.01C) must include the individualized admission assessment completed by the facility and other documentation which must include but is not limited to:

1. Current medical information that documents the client's current care needs;
2. Historical information that impacts the client's care needs;
3. Discharge summary(ies) of any facility stay(s) within the past 6 months;
4. Current physical/cognitive/behavioral status;
5. Justification for special needs level of care; and
6. Identification of major areas of preliminary care planning (an estimate of services needed to reach the proposed goals).

12-014.03A2 Facilities serving the needs of clients with brain injuries (see 471 NAC 12-014.01B) shall submit the individualized admission assessment completed by the facility and the following documentation which must include but is not limited to:

1. Current medical information that documents the client's current care needs, including a letter from the client's primary care physician indicating the potential for successful rehabilitation;
2. Historical information that impacts the client's care needs;
3. Discharge summaries of any facility stay(s) within the past year;
4. All discharge/service summaries of any rehabilitative (inpatient and outpatient) services received since the qualifying injury;
5. An Individualized Educational Plan (IEP) of any client under age 21 if one exists;
6. An Individual Program Plan and discharge statement/meeting for any client receiving or who has received services from the Developmental Disabilities System since the qualifying injury;
7. The written plan from Vocational Rehabilitative services if the client is receiving or has received since the qualifying injury;
8. Current physical/cognitive/behavior status; and
9. Identification of major areas of preliminary care planning (an estimate of services needed to reach the proposed goals).

12-014.03B Initial Approval: Based on the pre-admission assessment, initial approval/denial will be given by the Central Office staff for a 90-day admission, for assessment and development of a special needs plan of care. During this 90-day period, the individual will be receiving special needs care for the purposes of determining the potential for benefit from longer-term participation in the special needs program. At the end of 30 days, the Central Office will be provided a special needs formal plan of care, developed by the full interdisciplinary team. By the end of the 60th day, a report will be provided to the Central Office establishing demonstrated potential to benefit from the additional special needs programming, and estimating the time needed to complete the special needs plan of care, or recommendations to a lesser level of care.